

DISCHARGE FOR HOMOSEXUALITY

1. Policy

Regular members who are or have been involved in homosexual activities are unsuitable as members of the Force and shall be discharged in accordance with RCMP Regulation 74.

2. General

- 06-06-13  
REVIEWER 19
- a. Any investigation by the Force into homosexual behaviour of a regular member must be carefully managed to ensure that the rights of the individual are fully respected. Those conducting such investigations should be sensitive to the personal and confidential nature of the matters being investigated.
- b. This bulletin shall be a Commissioner's Standing Order made pursuant to the RCMP Act, Section 21(2), notwithstanding that it is not in the usual format for a CSO. No changes, amendments or revisions shall be made in any manner whatsoever to this bulleting or its appendices without the express approval of the Commissioner.

3. Definition

"Homosexual Activity" - means the involvement of a regular member in sexual behaviour with a person of the same sex

4. C.O.

- a. On being advised that a regular member has engaged in, is engaging in or may engage in homosexual behaviour, discreetly inquire into the facts of the situation using, when necessary, the offices of the Health Services officer for your division.
- b. If your inquiry tends to substantiate the initial report, have an investigation conducted of the circumstances by a member senior in rank to the member being investigated.
- c. If you believe it necessary or the member so requests and the Health Services officer so recommends refer the subject for psychiatric examination.

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5. Investigator

Conduct a thorough and discreet investigation into the situation and submit a complete report directly to the C.O.

6. C.O.

- a. If the investigation indicates that there are reasonable grounds to believe that a member has engaged in, is engaging in or may engage in homosexual behaviour, serve the member with a "Notice of Intent to Recommend Discharge".
- b. Include in the Notice:
  1. a statement of the basis upon which you are making your recommendation for discharge. Attach copies of all documents you intend to use in support of your recommendation.
  2. advice that the member has seven days in which to request a review of your recommendation by an officer appointed by the D.O.P.
  3. advice that failure to request a review within the specified time period will be construed to mean that no review is desired and the recommendation will be forwarded to the Commissioner for final determination.
- c. Send a copy of the Notice to Headquarters Att: O i/c IAB.

7. Member

- a. On being served a "Notice of Intent to Recommend Discharge", you have seven days to request a review of the C.O.'s recommendation by an officer appointed by the D.O.P. Forward your request direct to your C.O. who will forward it to the D.O.P.
  1. Failure to request a review will be construed to mean that no review is desired and the recommendation will be forwarded to the Commissioner for final determination.

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7. b. Should you request a review, as outlined in "a" above, you may make written representation to the appointed officer prior to the review and at the review you may make oral representation and call witnesses in your defence.
  1. You may seek advice and guidance from counsel prior to your requested review but at the review you may only be assisted or represented by another member as outlined in paragraph 9.f. of this bulletin.

8. D.O.P.

- a. When a member requests a review, appoint an officer to review and examine all documents and evidence placed before him/her in relation to the members requested review.
- b. On appointment of an officer, advise the member and the C.O. of the appointment.
- c. Have IAB forward copies of the Notice and supporting documents to the appointed officer a.s.a.p.

9. Appointed Officer

- a. Review all materials submitted to you for review.
- b. Set a date for the review within two weeks from the date of your appointment, and also set a place and time for the review. Notify the member and C.O. of the date, place and time.
- c. Hold the hearing in private.
- d. The strict rules of evidence will seldom, if ever, apply to a review held under this bulletin. However, you must act only on evidence which has cogency at law. You may consider evidence, oral or written, as long as it is relevant to the issues in the review. Although you have wide discretion in the evidence you consider, be cautious about relying on evidence which is mostly hearsay or documents of dubious value.
- e. The proceedings of the review must be recorded by a competent stenographer supplemented by recording equipment.

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9. f. a member may be represented or assisted at the review by any other member except:
  1. members of a Discharge and Demotion Board,
  2. members of the Board of Review, (including alternatives)
  3. members of Complaints and Internal Investigation Sections,
  4. any member involved in the investigation of any contravention of Section 25 or 26 of the Act under review in relation to a member subject of this review,
  5. members of any Discipline Section or Internal Affairs Branch,
  6. officers in the member's chain of command, and
  7. any member called or reasonably expected to be called as a witness in this review.
- g. The Commanding Officer may be represented by a legally trained member appointed by Internal Affairs Branch.
- h. At the beginning of the review:
  1. swear in the stenographer, and
  2. read to those present the statement upon which the Commanding Officer makes his/her recommendation for discharge.
- i. Prior to calling witness, deal with any preliminary matters raised by the member or C.O.
- j. Swear in all witnesses called.
- k. When a question is objected to on the grounds of substance or form or the witness claims privilege, the witness need not answer the question until you have ruled on the objection.
- l. Witnesses may be examined by:
  1. the C.O.'s representative,

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  1. 2. the member subject of the hearing or his representative, or
  3. yourself.
- m. If clarification of any evidence or matter must be sought outside the review, or additional witnesses are required, adjourn the review and the request the Commanding Officer obtain the necessary clarification or member witnesses. Notwithstanding, you may, adjourn any hearing for such time and to such place, and upon such terms as you consider necessary.
- n. After hearing all oral evidence and representation, adjourn the hearing and consider all the evidence taken before you.
- o. After considering all the evidence, decide whether or not the C.O.'s recommendation has or has not, on a balance of probabilities, been supported by the evidence.
- p. If you are satisfied, the evidence supports the C.O.'s recommendation, recommend to the Commissioner the member be discharged.
- q. If you are satisfied the evidence does not support the C.O.'s recommendation, direct the member be retained in the Force.
- r. In your written decision include the following:
  1. a statement of your findings on questions of fact material to the decision,
  2. reason for your decision, and
  3. your recommendation or direction.

10. Commissioner

Consider the recommendation of the appointed officer, or if no review was requested by the member, the recommendation of the Commanding Officer and make a final determination on the matter.